



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF L-W-

DATE: JAN. 17, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a journalist, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, arguing that she meets at least three of the ten criteria.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner indicates that she is currently employed as a senior correspondent for [REDACTED]. Because she has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner only fulfilled one of the initial evidentiary criteria, original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v). On appeal, the Petitioner maintains that she meets four additional criteria, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner contends that she meets this criterion based on her receiving a “1996 [REDACTED] Award” from the [REDACTED] and an [REDACTED]

_____ Award” from the _____.¹ In regards to the “1996 _____ Award,” the Petitioner submitted a letter from _____ professor at _____, who claimed that the award “is [a] national level award and the most significant award in _____ news field.” _____ also asserted that the _____ Award in China is the same level award as Pulitzer Prize in the U.S.” In addition, the Petitioner provided a certificate from _____ proclaiming that its award “is the highest-ranked award for national television broadcasting stations.” However, _____ and _____ did not provide detailed or corroborating information to support their opinions. For example, _____ did not explain why he believed it to be “the most significant award” or why he compared it to a Pulitzer Prize.

On appeal, the Petitioner offers screenshots from 945theanswer.com and seattletimes.com highlighting that _____ is “government-backed” and a “state-sanctioned umbrella group of official industry organizations.” These documents do not relate the Petitioner’s award, nor do they demonstrate the nature of the award or the national or international recognition it receives.² Moreover, she contends that a television show, _____, also won a _____ Award” in 1996, which was aired on the widely watched Central Committee Television (CCTV). Thus, she posits that “it stands to reason that if a program of such caliber as _____ had garnered the 1996 _____ Award, then it must speak volume about the prestige of the _____ Award and the merits of [her] TV program.” The Petitioner did not show how another television program that received a _____ Award” demonstrates that the award is nationally or internationally recognized for excellence in the field. The issue here is not the reputation or popularity of another television program or station, but rather the national or international recognition of the prize or award by the field. Therefore, the fact that _____ bestowed _____ a _____ Award” does not establish that the award is nationally or internationally recognized for excellence in the field.

Regarding the _____ Award,” the Petitioner makes the same arguments relating to _____ “back[ing] by the Chinese government.” In addition, she refers to previously submitted screenshots that indicate _____ “is a top-grade national news association which is compose[d] of the production and industry report of the heads of various departments of the central government,” “set up in late December to keep an eye on and reduce the huge issue of media plagiarism within China,” and “organize[s] training courses for reporters and editors of industry media.” Again, she did not demonstrate that these government-authorized awards are nationally or internationally recognized for excellence in the field consistent with this regulatory criterion.

¹ Although the Petitioner previously claimed to meet this criterion based on receiving the “1996 _____ Award,” she does not continue to do so on appeal, nor does she reflect that this award qualifies her eligibility for this criterion.

² See USCIS Policy Memorandum PM 602-0005.1, Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

Accordingly, the Petitioner did not establish that she meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner maintains that she meets this criterion based on three articles: [REDACTED] (book.sina.com), [REDACTED] (ifeng.com), and [REDACTED] (nytimes.com). The record, however, does not reflect published material about the Petitioner.³ Instead, the first two articles are identical reviews and summaries for the book, [REDACTED].⁴ Although the articles mention the Petitioner and describe her occupation and education credentials, they are not about her, but about her novel. Similarly, the nytimes.com article is about a surge in China's maternal mortality rate. While the article references the Petitioner's book and provides quotations, it is not about the Petitioner. Articles that are not about a petitioner do not fulfill this regulatory criterion. See, e.g., *Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor). For these reasons, the Petitioner did not demonstrate that she satisfies this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. Although the Director concluded that the Petitioner fulfilled this criterion, the record does not reflect that she has made original contributions of major significance in the journalism field.

In making his determination, the Director cited to portions of recommendation letters from [REDACTED] and [REDACTED] a researcher at the [REDACTED]. Specifically, [REDACTED] commented on the Petitioner's professional traits, such as "she does not constrict to the traditional confines of her beat," and she "possesses a clear sense of purpose, a breadth of knowledge on her beat, and a wide range of resources." Moreover, [REDACTED] claimed that the Petitioner's "journalistic accomplishments are especially outstanding given the sensitive nature of China's birth policies" and "is truly an exemplary figure to other journalists and news reporters." Having a diverse skill set, however, is not

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

⁴ Both articles appear to be the same but with similar English language translations.

a contribution of major significance in-and-of itself. Here, [REDACTED] did not show how the Petitioner's personal traits and work ethics have greatly influenced or impacted the journalism field. In addition, [REDACTED] did not identify the Petitioner's "journalistic accomplishments" and why the field considers them to be "outstanding."

The letter from [REDACTED] has similar issues. He indicated that when *China Business Weekly* published the Petitioner's article on future birth rates, "the stock prices of companies that provide baby-related goods and services have almost doubled on [the Petitioner's] predictions." [REDACTED] however, did not explain how the journalism field views the article as being majorly significant or how the increase of stock prices on baby-related products is evidence of influence on the journalism field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁵ On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁶ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

In addition, the Director noted that the Petitioner's work was cited by the [REDACTED]. The record also contains excerpts of [REDACTED] "Annual Report" for 2016 and 2017 reflecting citations to the Petitioner's articles. While the Petitioner's articles were referenced in two government reports, she did not establish how any of her articles are considered of major significance to the overall journalism field. Nor has she shown that the citation of her article in a government report demonstrates an original contribution of major significance, as she did not establish the impact or importance of [REDACTED] annual reports on her field.

The Petitioner also maintained that her book, [REDACTED], meets this criterion and asserted that "[t]he novel received extensive media coverage from major Chinese online news outlets" and "incited widespread positive commentaries and reviews from experts." In addition to the two book reviews discussed under the published material criterion, the Petitioner submitted a third review, posted on cnpop.org. Here, the Petitioner has not shown that three book reviews demonstrate her claim of "extensive media coverage" and "widespread positive commentaries." Moreover, while the websites summarized and reviewed the book, they do not show that the field views her book as having been highly influential, greatly impactful, or otherwise risen to a level of major significance. Although the review from ifeng.com indicated that her book is "the first non-fiction novel that reflects Chinese fertility concept" reflecting its originality, it did not show its significance in the field.

Moreover, the Petitioner indicated that her article, [REDACTED] was included in the book, [REDACTED] a publication

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁶ *Id.* at 9. See also *Kazarian*, 580 F.3d at 1036, *aff'd* in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

of China Democracy and Legal System Publishing (CDLSP). Although the Petitioner stressed the reputation of CDLSP as “repeatedly selected as the ‘Best Publication Houses’ by the General Administration of Press and Publication,” she did not establish that her article is an original contribution of major significance. The issue here is not the reputation of the publishing company but the impact or influence of the article in the field. She did not, for example, show that her article garnered widespread attention from the field or that the book received high sales as a result of the inclusion of her article. In addition, the Petitioner did not demonstrate that her field considers the article to be majorly significant.

Further, the Petitioner maintained that she attended national and international conferences, including appearing as a guest speaker and hostess. While the Petitioner offered evidence of her participation, such as hostess for the [REDACTED] she did not establish, for instance, the significance of her conferences, if the field views them as authoritative, or whether they have been extensively referenced or cited by others.⁷ Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance.” See *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff’d in part*, 596 F.3d 1115.

For these reasons, the Petitioner has not met her burden of showing that she has made original contributions of major significance in the field. Accordingly, we withdraw the Director’s finding for this criterion.

Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).

Previously, the Petitioner claimed that her articles qualified as comparable evidence under the regulation at the regulation at 8 C.F.R. § 204.5(h)(4).⁸ On appeal, the Petitioner contends that she “submit[s] direct evidence to satisfy this criterion without relying on the argument of comparative evidence.” Specifically, the Petitioner provides the translations of abstracts for 42 articles reflecting the majority published in *China Business News Daily*, as well as other publications such as *Journalism Lover*, *Modern Communication*, and *China Radio and TV Academic Journal*. In addition, the Petitioner argues that her article included in the book, [REDACTED]

⁷ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (providing an example that peer-reviewed articles in scholarly journals that have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite the individual’s work as authoritative in the field, may be probative of the significance of person’s contributions to the field of endeavor); see also *Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

⁸ The regulation at 8 C.F.R. § 204.5(h)(4) allows for comparable evidence if the listed criteria do not readily apply to her occupation. See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 12. A petitioner should explain why she has not submitted evidence that would satisfy at least three of the criteria set forth in 8 C.F.R. § 204.5(h)(3) as well as why the evidence she has included is “comparable” to that required under 8 C.F.R. § 204.5(h)(3). *Id.* Here, the Petitioner did not show why she cannot offer evidence that meets at least three of the criteria. General assertions that any of the ten objective criteria do not readily apply to an occupation are not probative and should be discounted. *Id.*

_____ and presentations at academic conferences, discussed above, also meets this criterion.

A scholarly article should be written for “learned” persons in the field. “Learned” is defined as having or demonstrating profound knowledge or scholarship. Learned persons include all persons having profound knowledge of a field.⁹ Because the Petitioner has only submitted abstracts of her articles, which include one or two-sentence summary paragraphs, she has not established that her articles qualify as “scholarly articles.” Likewise, while the Petitioner provided evidence of the publication and sale of the book, she did not present the actual article. Further, the Petitioner did not offer evidence showing that her presentations were scholarly in nature and appeared in professional or major trade publications or other major media. Without such evidence, the Petitioner has not shown that she has authored scholarly articles consistent with this regulatory criterion.

For these reasons, the Petitioner did not demonstrate that she fulfills this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner contends that she qualifies for this criterion based on her critical roles with _____ and _____.¹⁰ Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities. It is not the title of a petitioner’s role, but rather the performance in the role that determines whether the role is or was critical.¹¹

Regarding _____ the record contains a letter from _____ CEO, who indicated that the Petitioner “has been promoted to Senior Correspondent for the entire _____ since 2010,” she was named an “Excellent Employee in 2005 for her professional contributions,” and received a “Contribution Award in 2015 for her significant contribution.” She also submitted honor certificates supporting _____ letter reflecting her “outstanding work performance in 2005” and an honorary contribution award in 2015. On appeal, the Petitioner presents an “Employment Verification” letter stating that “[h]er employment performance has been excellent, and she has no criminal record.” As it pertains to _____ the record includes a letter from _____ former deputy director, who claimed that the Petitioner “has been one of the critical contributors,” she received two awards for her stories, and the “TV station [has] received large volumes of inquiries from reporters of other TV stations to collaborate on follow-up stories about [the Petitioner’s] original news discoveries.”

⁹ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9.

¹⁰ The Petitioner does not claim, nor does the record reflect, that she performed in a leading role for either organization.

¹¹ *Id.*

Here, the Petitioner's letters do not contain specific, probative information to establish that she performed in a critical role for organizations or establishments that have a distinguished reputation.¹² For instance, [REDACTED] did not identify what contributions the Petitioner made and how they contributed to the success or standing of [REDACTED]. Moreover, employment longevity and employer satisfaction are not evidence demonstrating that an employee's role is critical to the operations of the organization. Further, the Petitioner did not establish how her news stories contributed to the overall television station.

Accordingly, the Petitioner did not demonstrate that she meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of L-W-*, ID# 1901372 (AAO Jan. 17, 2019)

¹² See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10 (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).